

AMENDED IN ASSEMBLY JULY 14, 2009

AMENDED IN ASSEMBLY JUNE 29, 2009

AMENDED IN SENATE APRIL 27, 2009

AMENDED IN SENATE APRIL 22, 2009

AMENDED IN SENATE APRIL 16, 2009

AMENDED IN SENATE APRIL 1, 2009

SENATE BILL

No. 388

Introduced by Senator Calderon

February 26, 2009

An act to add Section 66407 to the Education Code, relating to college textbooks.

LEGISLATIVE COUNSEL'S DIGEST

SB 388, as amended, Calderon. Educational materials.

The Donahoe Higher Education Act authorizes the activities of the 4 segments of the postsecondary education system in the state. These segments include the 3 public postsecondary segments: the University of California, which is administered by the Regents of the University of California, the California State University, which is administered by the Trustees of the California State University, and the California Community Colleges, which is administered by the Board of Governors of the California Community Colleges. Private and independent postsecondary educational institutions constitute the other segment.

Existing law urges textbook publishers to take specified actions aimed at reducing the amounts that students pay for textbooks. Existing law requires the Trustees of the California State University and the Board

of Governors of the California Community Colleges, and requests the Regents of the University of California, among other things, to work with the academic senates of each respective segment to encourage faculty to give consideration to the least costly practices in assigning textbooks, to encourage faculty to disclose to students how new editions of textbooks are different from previous editions and the cost to students for textbooks selected, to review procedures for faculty to inform college and university bookstores of textbook selections, and to encourage faculty to work closely with publishers and college and university bookstores in creating bundles and packages that are economically sound.

Existing law expresses the intent of the Legislature to encourage private colleges and universities to work with their respective academic senates, and to encourage faculty to consider practices in selecting textbooks that will result in the lowest costs to students.

Existing law requires textbook publishers, for textbooks published on or after January 1, 2010, to print a summary of the substantive content differences between the new edition and any prior addition on, or within, the cover of the textbook, as well as the copyright date of the previous edition.

Existing law prohibits those responsible for choosing course materials and adopting textbooks at an institution of higher education from demanding or receiving anything of value for adopting specific course materials required for coursework instruction.

This bill would enact the Accountability in College Textbook Publishing Practices Act, as part of the Donahoe Higher Education Act, which would require any publisher of college textbooks ~~that provides any information regarding college textbooks~~ or supplemental materials, as defined, to make the price of the textbooks or supplemental materials available on its Internet Web site, to charge no more than the price shown on its Internet Web site on the date that an order is received, and if the price is otherwise changed, to include the amount of the change and the date of the change on its Internet Web site. The bill would also require a publisher to provide bundled textbooks and supplemental material separately.

~~The bill would require the campus bookstore to make the textbook or supplemental material available for sale at a price not exceeding an amount that is 20% greater than the price quoted by the publisher.~~

This bill would allow an action for an injunction to be brought against a publisher ~~or a campus bookstore~~ in superior court for violating these

provisions. The bill would state that it would become operative on July 1, 2010.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 66407 is added to the Education Code,
2 to read:

3 66407. (a) This section shall be known and may be cited as
4 the Accountability in College Textbook Publishing Practices Act.

5 (b) It is the intent of the Legislature that every student seeking
6 a higher education in the state is offered affordable access to course
7 materials and to do all of the following:

8 (1) To encourage textbook publishers and distributors to work
9 with faculty to promote understanding of the cost to students of
10 purchasing faculty selected textbooks, including the disclosure of
11 prices and bundling practices.

12 (2) To encourage innovation in the development and use of
13 course materials, including open textbooks and other open
14 educational resources, that can help students receive the full value
15 of their educational investment without excessive cost.

16 (3) To ensure that faculty members are informed of accurate
17 and relevant pricing information for course materials and that
18 students are protected as a consumer group.

19 (4) To strengthen and enforce existing federal regulations.

20 (c) As used in this section, the following terms have the
21 following meanings:

22 (1) "Bundle" means one or more college textbooks or other
23 supplemental learning materials that may be packaged together to
24 be sold as course material for one price.

25 (2) "Campus bookstore" means the bookstore on the campus
26 of, or otherwise associated with, an institution of higher education.

27 (3) "College textbook" means a textbook or set of textbooks
28 used for, or in conjunction with, a course at an institution of higher
29 education.

30 (4) "Custom textbook" means a college textbook that is
31 compiled by a publisher at the direction of a faculty member or
32 other person or adopting entity in charge of selecting course
33 materials at an institution of higher education and may include,

1 alone or in combination, items such as selections from original
2 instructor materials, previously copyrighted publisher materials,
3 copyrighted third-party works, and elements unique to a specific
4 institution, such as commemorative editions.

5 (5) “Publisher” means a publisher of college textbooks or
6 supplemental materials that markets college textbooks or
7 supplemental materials to faculty members at institutions of higher
8 learning education.

9 (6) “Substantial content” means parts of a college textbook,
10 such as new chapters, additional eras of time, new themes, or new
11 subject matter.

12 (7) “Supplemental material” means educational material
13 developed to accompany a college textbook, which may include
14 printed materials, computer disks, Internet Web site access, and
15 electronically distributed materials.

16 (8) For purposes of this section, “writing” includes electronic
17 communications.

18 (d) If a publisher provides a faculty member or entity in charge
19 of selecting course materials at an institution of higher education
20 with information regarding a college textbook or supplemental
21 material, the publisher shall also communicate whether the college
22 textbook or supplemental material is available in any other format,
23 including paperback or unbound, and the price at which the
24 publisher would make the college textbook or supplemental
25 material in the other format available.

26 ~~(e) If a publisher provides a faculty member or entity in charge~~
27 ~~of selecting course materials at an institution of higher education~~
28 ~~with the price at which the publisher would make the college~~
29 ~~textbook or supplemental material available to the institution’s~~
30 ~~campus bookstore as required by this section, the publisher shall~~
31 ~~do all of the following:~~

32 *(e) A publisher shall do all of the following:*

33 (1) Make the price at which the textbook or supplemental
34 material is made available to the institution’s campus bookstore
35 available on the publisher’s Internet Web site.

36 (2) Charge no more than the price shown on the publisher’s
37 Internet Web site on the date that the order is received from the
38 institution’s campus bookstore by the publisher.

39 (3) *If a publisher provides a faculty member or entity in charge*
40 *of selecting course material at an institution of higher education*

1 *with the price at which the publisher would make the college*
2 *textbook or supplemental material available to the institution's*
3 *campus bookstore, and after a price is provided, but before an*
4 *order is placed, the publisher changes the price at which it will*
5 *make a textbook or supplemental material available to the*
6 *institution's campus bookstore, the publisher shall make*
7 *information available on its Internet Web site regarding the amount*
8 *of the change in price, whether the price was increased or*
9 *decreased, and the date or dates when the price was changed.*

10 (f) A publisher that sells a college textbook and any
11 supplemental material as a bundle shall also make the college
12 textbook and each item of supplemental material available, as
13 separate and unbundled items at separate prices.

14 (g) If a faculty member or entity in charge of selecting course
15 materials at an institution of higher education directs a publisher
16 to compile a custom textbook or bundle, the publisher shall provide,
17 in writing, prior to accepting an order for the custom textbook or
18 bundle, the price at which the publisher would make the custom
19 textbook or bundle available to the campus bookstore.

20 ~~(h) A campus bookstore shall make the textbook or supplemental~~
21 ~~material available for sale at a price not exceeding an amount that~~
22 ~~is 20 percent greater than the price at which the textbook or~~
23 ~~supplemental material was purchased by the campus bookstore,~~
24 ~~excluding any applicable taxes.~~

25 ~~(i)~~

26 ~~(h)~~ Any publisher or campus bookstore violating any of the
27 provisions of this section may be enjoined by any superior court
28 of competent jurisdiction upon action for an injunction.

29 ~~(j)~~

30 (i) This section shall become operative on July 1, 2010.